

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

RACHEL LOUISE MILLER,

Plaintiff,

v.

CIVIL ACTION NO. 5:22-cv-00122

UNITED STATES OF AMERICA,

Defendant.

ORDER

Pending is Plaintiff Rachel Miller’s “Scheduling Order (For Incarcerated Plaintiffs Only)/Rule 16 Case Management Orders (Non Incarcerated Plaintiffs Only) And Request to Remand Said Complaint back to the Department of Veteran Affairs, for Appropriate Adjudication in the Appeals Process” [Doc. 19], filed August 8, 2022. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Aboulhosn filed his PF&R on August 8, 2022. Magistrate Judge Aboulhosn construed Plaintiff’s Motion as a motion or notice to voluntarily dismiss this matter pursuant to *Federal Rule of Civil Procedure* 41(a)(1), and recommended that the Court grant Plaintiff’s Motion and dismiss this matter without prejudice.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s


right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on August 25, 2022. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 21**], **GRANTS** Plaintiff’s Motion as construed [**Doc. 19**], and **DISMISSES** the matter without prejudice.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: September 6, 2022




Frank W. Volk
United States District Judge